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car. *Held,* that the assessor was a mere licensee and the city owed him no duty, and that even if the relationship had been such as ordinarily to establish such a duty the city would not be liable here because it was acting in a governmental capacity. *Carroll* v. *City of Yonkers* (N. Y., 1920), 184 N. Y. S., 847.

The general proposition that a municipal corporation is not liable for torts committed while it is acting in a governmental capacity, and that it is liable for those committed while it is acting in its private or corporate capacity, is so well settled that no citation of authority is necessary. For an interesting discussion of this general subject, see 10 MICH. L. REV. 306. In the instant case it was clear from the evidence that the deceased was a mere licensee. It further appeared that the engineer was not acting within the scope of his authority. Consequently, the city could not be held liable in any case on those facts. *Massell* v. *Boston Elevated Railway,* 191 Mass. 491; *Thayer* v. *City of Boston,* 19 Pick. 516. Nevertheless, the court discussed the above proposition, and indicated that the proper way to ascertain in any case into which class of powers a certain act should be placed was to determine whether the city at the time of the casualty was carrying on a public function or whether it was acting for its own private advancement and emolument. The conflict in the authorities is due to the uncertainty of the proper test to be applied rather than to the uncertainty of the law itself. Several rules have been advanced by the courts. Some have applied the test of whether the municipality derives revenue from the service or not. Others say that whether the work is of a commercial or of a public character should determine. *Bailey* v. *The Mayor,* 3 Hill 531. Still others draw a different distinction. See *Rochester White Lead Co.* v. *Rochester,* 3 N. Y. 463. In *Lloyd* v. *Mayor, etc., of N. Y.,* 5 N. Y. 369, the court declined to assume the responsibility of establishing any criterion, saying it would determine as each case arose into which class it should fall. In *Hodgins* v. *Bay City,* 156 Mich. 687, and in *Jones* v. *Sioux City,* 185 Iowa 1178, the courts recognized the general rule, but immediately set out to avoid its effects. It is often difficult to tell where one class of powers leaves off and the other begins. An examination of the cases reveals the fact that the courts are disinclined to draw too strict a line so as to exempt municipal corporation from liability to the detriment of private rights. As yet no definite test has been formulated which has been generally adopted.

MUNICIPAL CORPORATIONS—LETTING CONTRACTS TO LOWEST BIDDER.—Where the charter of a city required that improvement contracts should be let to the lowest bidder, and the city invited bids requiring each bidder to furnish his own specifications for any hard surface pavement, *held,* that the proceeding was void, as there was no direct competition on the basis of fixed specifications as contemplated by law. *Montague-O'Reilly Co.* v. *Milwaukee* (Ore., 1920), 193 Pac. 824.

The object and purpose of a statutory provision requiring work to be let to the lowest responsible bidder is to insure competition in the letting of

contracts for public improvements. *National Surety Co.* v. *Kansas City Brick Co.*, 73 Kan. 196. All contracts in which the public are interested which tend to prevent the competition required by statute are void. *Fishburn* v. *City of Chicago*, 171 Ill. 338. There is a split of authority on the question whether bidding on a patented article allows the necessary competition. In *Terwilliger Land Co.* v. *Portland*, 62 Ore. 101, an ordinance inviting bids for the improvement of streets with Hassam Pavement, a patented process, was held to be void. In *State* v. *Shawnee County*, 57 Kan. 267, the court held that it was hardly intended by the law that the public should be barred from using recent inventions or obtaining beneficial improvements because they were covered by an authorized patent or were the product of exclusive manufacture. See other cases and notes in 5 MICH. L. REV. 484, 485, 708. With a view for insuring the city both competition and the benefit of different processes, Judge Cooley held that the kind of material is not required to be determined in advance of advertisement for bids, saying that when bids are thus called for all bidders for a particular kind of pavement are bidders against all others in a certain sense, but they are also bidders against each other in a more particular sense. *Atty. Gen. ex rel. Cook* v. *Detroit*, 26 Mich. 263. The courts usually hold that bidding on the basis of different kinds of materials is permissible. *Baltimore* v. *Flack*, 104 Md. 107; *Schuck* v. *Reading*, 186 Pa. 248. Specifications must be prepared in advance sufficiently definite to enable bidders to prepare their bids intelligently. 20 AM. & ENG. ENC. OF LAW 1167. Where the quantity of the work is not described in the specifications, the contracts made thereunder are void. *Wells* v. *Burnham*, 20 Wis. 119; *Cal. Improv. Co.* v. *Reynolds*, 123 Cal. 88. See 38 L. R. A. (N. S.) 663.

MUNICIPAL CORPORATIONS—SPECIAL ASSESSMENTS ON IMPROVEMENTS.—Where the landowners on an island were assessed for the expense of a roadway established on the mainland, where their property was isolated from and inaccessible to the street and could only be reached by a bridge estimated to cost a very large sum of the money and the building of which was not contemplated in the near future, *held*, that the assessment was invalid because the benefits were too remote. *City of Seattle* v. *Peabody* (Wash., 1920), 192 Pac. 961.

The expense of making improvements is very generally met in whole or in part by local assessments authorized to be made upon persons or property benefited or deemed to be benefited. 2 DILLON ON MUNICIPAL CORPORATIONS [3d ed.] 911. A legislative act describing the community benefited will not be disturbed by the courts unless it is obviously erroneous and arbitrary. *Mullins* v. *Little Rock*, 131 Ark. 198. The benefits which will legalize an assessment for the expense of a local improvement must be a present benefit immediately accruing, and speculative benefits which may never be realized are not sufficient. *In re West Wheeler St.*, 97 Wash. 669. The question as to what constitutes a speculative benefit has caused the courts a great deal of difficulty. In *Hutt* v. *Chicago*, 132 Ill. 352, the street ran to the point